

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LARON GRAY,

Defendant.

CASE NO. 8:14CR26

MEMORANDUM AND ORDER

This matter is before the Court on the Defendant Laron Gray's Petition for Reconsideration, ECF No. 136, and Motion for Leave to Proceed In Forma Pauperis, ECF No. 135. The Defendant Filed a Notice of Appeal, ECF No. 134, on March 20, 2017, before filing the pending motions, and the Court will construe his Petition for Reconsideration as a request for Certificate of Appealability regarding the Court's summary dismissal, ECF Nos. 132, 133, of the Defendant's Motions to Vacate under 28 U.S.C. § 2255, ECF Nos. 125, 126.

Before a Defendant may appeal the denial of his § 2255 motion, a "Certificate of Appealability" must issue. Pursuant to the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214 ("AEDPA"), the right to appeal the denial of a § 2255 motion is governed by the certificate of appealability requirements of 28 U.S.C. § 2253(c). 28 U.S.C. § 2253(c)(2) provides that a certificate of appealability may issue only if the applicant has made a substantial showing of the denial of a constitutional right:

(c)(1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from—

....

(B) the final order in a proceeding under section 2255.

(2) A certificate of appealability may issue under paragraph (1) only if the applicant has made a substantial showing of the denial of a constitutional right.

(3) The certificate of appealability under paragraph (1) shall indicate which specific issue or issues satisfy the showing required by paragraph (2).

28 U.S.C. § 2253(c).

A “substantial showing of the denial of a constitutional right” requires a demonstration “that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were ‘adequate to deserve encouragement to proceed further.’” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (citing *Barefoot v. Estelle*, 463 U.S. 880, 893 n.4 (1983)).

For the reasons stated in the Court’s Memorandum and Order, ECF No. 132, the Court concludes that the Defendant has not made a substantial showing of the denial of a constitutional right as required by 28 U.S.C. § 2253(c).

IT IS ORDERED:

1. The Defendant’s Petition for Reconsideration, ECF No. 136, which the court has construed as a request for a certificate for appealability is denied;
2. The Defendant’s Motion for Leave to Proceed In Forma Pauperis, ECF No. 135, is denied;
3. The Clerk of Court shall provide a copy of this Order to the Eighth Circuit Court of Appeals; and
4. A copy of this Memorandum and Order shall be mailed to the Defendant at his last known address.

DATED this 14th day of June, 2017.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge